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Before the  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Review of the Commission's ) MM Docket No. 93-114  
Rules Governing the Low Power )  
Television Service )

COMMENTS OF CBS INC.

CBS Inc. ("CBS") respectfully submits these comments for consideration by the Federal Communications Commission ("Commission") pursuant to a Notice of Proposed Rulemaking released April 22, 1993 (the "Notice"). The Notice proposes to modify certain rules governing Low Power Television ("LPTV") stations, specifically those rules involving: (i) application acceptance; (ii) modification of facilities; and (iii) call signs.

CBS supports the Commission's proposed changes as to application acceptance and modification of facilities because the rules, as currently in effect, have accomplished their purpose.<sup>1/</sup> They have enabled the Commission to all but eliminate its backlog of pending

<sup>1/</sup> CBS takes no position on the change to the call sign regulations proposed by the Commission.

LPTV applications. Absent this backlog, there is no reason for the rules. A new, more lenient, standard will facilitate application processing and facilities modifications for all LPTV applicants, without any adverse effect on administrative efficiency.

The Commission Should Modify Its LPTV Application Acceptance Standard Absent A Significant Backlog

The Commission currently accepts applications for both new LPTV stations and major changes to existing facilities during a "filing window." While the window is open, applicants may amend their applications at will. When the window closes, the time for amendments, in all but limited situations, ends. At that point, the Commission's staff processes the LPTV applications using a "complete and sufficient" acceptance standard. Notice at ¶2. Under this test, if an application is not "letter perfect" at the close of the window, it is dismissed as defective. Post-window amendments are not permitted to cure such defective applications, so applicants whose applications were dismissed must await the next filing window and hope that their applications have not been cut off by the grant of mutually-exclusive applications in the interim. Notice at ¶3.

The "complete and sufficient" standard was adopted because of the thousands of LPTV applications then on file at the Commission, with thousands more expected.<sup>2/</sup> By using the strict "complete and sufficient" standard, the Commission staff could "easily determine which applications were acceptable and which were not," Notice at ¶4, dismissing the defective ones and speeding processing of the acceptable ones.

Now that the Commission has reduced the backlog of applications to a "manageable level," Notice at ¶6, a less stringent standard is appropriate. Accordingly, the Notice proposes the use of a more flexible "substantially complete" standard. Under this test, applications which are not patently defective may be amended to correct minor defects. Rather than suffering the harsh sanction of dismissal because of a minor omission, an applicant will be given thirty days to cure a minor defect in an application which the Commission finds "substantially complete."

Such a policy change -- which would avoid imposing draconian penalties on applicants for small, easily

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<sup>2/</sup> The backlog of pending LPTV applications eventually grew to almost forty thousand. Notice at ¶4, and at footnote 4.

correctable errors -- is clearly desirable. And inasmuch as the Commission has all but eliminated its backlog of LPTV applications, liberalizing the test to one of "substantial completeness" would in no way delay application processing and the introduction of service to the public. Accordingly, the Commission's proposed policy charge deserves to be adopted.

#### The Commission Should Change Its LPTV Rules Governing Modification of Facilities

Applications to modify Commission-authorized facilities are classified as either major or minor changes. The Notice seeks to narrow the number of items considered major changes by expanding the definition of a minor change. The Notice proposes that modifications of facilities not involving a change in output channel would be considered "minor" where: (i) the changed facility would fully comply with the LPTV interference protection standards; (ii) the minor change application is not mutually exclusive with any earlier filed application; and (iii) the station's protected service contour resulting from the change would be suitably bounded.<sup>3/</sup>

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<sup>3/</sup> The Commission proposes that a change in facilities would be considered minor if the new protected contour would be contained within a circle centered at the site of the authorized facilities and having a radius of 15 kilometers. Notice at ¶4.

CBS supports this change in definition because it would, as the Commission notes, "permit [LPTV] station operators more latitude to relocate sites or alter antenna systems without having to await a filing window, but would still preclude substantial changes in technical facilities."

Notice at ¶16. Moreover, expanding the definition of a minor change in this manner would permit LPTV stations -- particularly those which operate with directional antennas -- to increase their service areas without infringing on the rights of another operator. For these reasons, we believe the Commission's proposed change would serve the public interest.

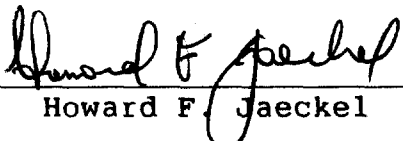
#### CONCLUSION


The Commission's proposed modifications to its LPTV rules will benefit both applicants and the public. Under the proposed modifications, it will no longer be necessary to dismiss applications for minor and readily correctable errors. Further, LPTV operators will be afforded additional flexibility in relocating sites and altering

antenna facilities. The Commission should therefore adopt the modifications set forth in the Notice.

Respectfully submitted,

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